

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

BELDEN CANADA ULC,	)	
	)	
Plaintiff,	)	
	)	C.A. No. 22-782-RGA
v.	)	
	)	<b>JURY TRIAL DEMANDED</b>
COMMSCOPE, INC., COMMSCOPE, INC.	)	
OF NORTH CAROLINA, and	)	
COMMSCOPE TECHNOLOGIES LLC,	)	
	)	
Defendants.	)	

**COMMSCOPE’S RESPONSE TO BELDEN’S MOTION FOR EXTENSION OF TIME  
TO FILE NOTICE OF APPEAL**

OF COUNSEL:

Philip P. Caspers  
Timothy A. Lindquist  
Dennis C. Bremer  
Tara C. Norgard  
William F. Bullard  
Mitchell R. Williams  
CARLSON, CASPERS, VANDENBURGH &  
LINDQUIST, P.A.  
225 South Sixth Street, Suite 4200  
Minneapolis, MN 55402  
(612) 436-9600

Kelly E. Farnan (#4395)  
Sara M. Metzler (#6509)  
Richards Layton & Finger, P.A.  
One Rodney Square  
920 North King Street  
Wilmington, DE 19801  
(302) 651-7700  
farnan@rlf.com  
metzler@rlf.com

*Attorneys for Defendants, CommScope, Inc.,  
CommScope, Inc. of North Carolina, and  
CommScope Technologies LLC*

Dated: December 2, 2025

At the time Belden filed its motion (D.I. 336), CommScope had not seen Belden's draft motion and, therefore, took no position. Having now reviewed Belden's motion with CommScope, we provide this brief response. "The standard for determining excusable neglect is strict, and courts should apply excusable neglect only in extraordinary circumstances to prevent injustice." *In re Genesis Health Ventures, Inc.*, Civ. No. 1:06-cv-00103-JJF, 2007 WL 1876388, \*2 (D. Del. June 24, 2007) (citing *Consolidated Freightways Corp. of Del. v. Larson*, 827 F.2d 916, 918 (3d Cir. 1997)). This motion concerns a jurisdictional deadline, not a lesser deadline.

The Third Circuit has recognized that the excusable neglect standard in this context is difficult to meet. In *Ragguette*, the Court found that missing the appeal deadline did not amount to excusable neglect where counsel thought someone else would file the notice because the missing of the deadline did not arise due to circumstances beyond counsel's control, and summarized the scenario as follows:

Simply put it cannot be said that Ragguette's attorney "has exhibited substantial diligence, [and] professional competence, ... but as the result of some minor neglect, compliance was not achieved." *Consolidated*, 827 F.2d at 920. In addition, Ragguette's counsel clearly "fail[ed] to provide for ... readily foreseeable consequence[s]." *Id.* at 919 (citations omitted).

*Ragguette v. Premier Wines & Spirits*, 691 F.3d 315, 320-21, 328, 333 (3<sup>rd</sup> Cir. 2012) (reversing grant of extension for abuse of discretion). Accordingly, wrongly calendaring a notice-of-appeal deadline date (*See, Ragguette*, 691 F.3d at 325-26 (citing *Airline Pilots v. Executive Airlines, Inc.*, 569 F.2d 1174 (1<sup>st</sup> Cir. 1978))) and wrongly believing someone else would file a notice of appeal are not excusable neglect. In each circumstance, the consequences of failing to timely file was foreseeable and the reason for the delay was within the reasonable control of the movant, which is an important consideration when addressing this motion. *Pioneer Inv. Servs. v. Brunswick Assocs.*

*Ltd. P'ship*, 507 U.S. 380, 395 (1993) (factors include “the reason for the delay, including whether it was within the reasonable control of the movant, and whether the movant acted in good faith”).

CommScope is sympathetic to Mr. Nash’s situation but he was not sole counsel in this case, or on the appeal. Nash Decl. ¶3. Rather, this was a sophisticated party represented by three experienced firms. Yet Mr. Nash is the only attorney from the three firms to put in a declaration. Importantly, Finnegan Henderson was involved, and purportedly responsible for any appeal (*Id.*), and yet did not provide any declaration or affidavit on this issue. Nor did the movant, Belden or its inside counsel. *See, Ragguette*, 691 F.3d at 328 (indicating Court was “troubled” by lack of declaration from other involved in the missing of the deadline).

OF COUNSEL:

Philip P. Caspers  
 Timothy A. Lindquist  
 Dennis C. Bremer  
 Tara C. Norgard  
 William F. Bullard  
 Mitchell R. Williams  
 CARLSON, CASPERS, VANDENBURGH &  
 LINDQUIST, P.A.  
 225 South Sixth Street, Suite 4200  
 Minneapolis, MN 55402  
 (612) 436-9600

/s/ Kelly E. Farnan

Kelly E. Farnan (#4395)  
 Sara M. Metzler (#6509)  
 Richards Layton & Finger, P.A.  
 One Rodney Square  
 920 North King Street  
 Wilmington, DE 19801  
 (302) 651-7700  
 farnan@rlf.com  
 metzler@rlf.com

*Attorneys for Defendants, CommScope, Inc.,  
 CommScope, Inc. of North Carolina, and  
 CommScope Technologies LLC*

Dated: December 2, 2025